

**April 20, 1998**

**DURHAM, NORTH CAROLINA  
MONDAY, APRIL 20, 1998  
7:30 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chamber at City Hall with the following members present: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Absent: None.

Also present: City Manager P. Lamont Ewell, City Attorney Henry Blinder, City Clerk Margaret M. Bowers and Deputy City Clerk D. Ann Gray.

Mayor Tennyson called the meeting to order and at this time, the Mayor requested a moment of silence in memory of Terry Sanford.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Larson to add to the agenda "Resolution Memorializing Terry Sanford" was approved at 7:34 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Engelhard, Griffin, Jacobs, Larson, McKissick and Miller. Noes: None. Absent At Time of Vote: Council Members Brown and Langley.

The Mayor asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Ewell informed the council of an Economic Development Forum to be held on Saturday, May 2, 1998, 8:30 a.m., Omni Hotel. City Attorney Blinder informed the council that the court had granted the city's motion to dismiss a portion of the case regarding Michael Johnson vs. City of Durham and Others. He noted the only portion of the case remaining was action against the City as a corporate entity, Joan Apple and Pernell Cannady. City Clerk Bowers informed the council that a valid protest petition had been filed against GBA #8 [Zoning Case 98-1] and the protest petition filed against GBA #9 [Zoning Case P98-2 was ruled insufficient.

Mayor Tennyson asked if any council member(s) or citizen(s) wanted to pull any item(s) from the Consent Agenda for discussion later in the meeting. At the request of citizens, Mayor Tennyson noted that the following items were being pulled from the Consent Agenda: Consent Items 1, 4, 5 and 9. Also, the Mayor noted the revisions to Consent Items 11 and 12 made at the Committee-of-the-Whole Meeting.

Several city employees requested to be heard on Consent Item 11 [Report and Recommendation from the Pay Plan Subcommittee]. It

**April 20, 1998**

was agreed by Council to allow the employees 12 minutes to speak on this item.

**MOTION** by Council Member Larson seconded by Council Member Miller to approve the Consent Agenda as amended was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: PROCUREMENT CARD SERVICES CONTRACT - CORESTATES BANK OF DELAWARE, N. A.**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a Procurement Card Services Contract with CoreStates Bank of Delaware, N.A. for the period May 1, 1998 through April 30, 2000 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: PROPOSED SALE OF CITY TRACT NO. 1434, TAX MAP 418-03-004A TO NANCY H. MYERS (HAMSTEAD COURT)**

**MOTION** by Council Member Larson seconded by Council Member Miller to accept the offer of \$500 from Nancy H. Myers to purchase City Tract No. 1434 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: EMPLOYMENT AND TRAINING OFFICE - FEDERAL GRANT FUNDS FOR SUMMER YOUTH PROGRAM**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt the "City of Durham Employment and Training Project Ordinance Summer Youth Program October 1, 1997 Until All Funds are Expended" in the amount of \$212,231 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox,

**April 20, 1998**

Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller.  
Noes: None. Absent: None.

**Ordinance #11409**

**SUBJECT: REALLOCATION OF FISCAL YEARS 1995-96, 1996-97, AND 1997-98 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a "Resolution to Reallocate \$1,500,320 in Community Development Block Grant Funds (FY 1995-96, 1996-97, 1997-98)" was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**Resolution #8445**

**SUBJECT: GRANT AGREEMENT - DEVELOPMENT VENTURES, INC., PROPERTIES LOCATED AT 903 AND 905 EAST MAIN STREET**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute a grant agreement between the City of Durham and Development Ventures, Inc. for an amount up to \$113,000 for acquisition, demolition, clearance, and landscaping of the properties located at 903 and 905 East Main Street, contingent upon project approval by the State Historic Preservation Office was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: AMENDMENTS TO COMPENSATION AND CLASSIFICATION PLAN**

**MOTION** by Council Member Larson seconded by Council Member Miller to amend the City of Durham Compensation and Classification Plan as adopted on July 6, 1996, as amended was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: COUNCIL PROCEDURES SUBCOMMITTEE**

**April 20, 1998**

**MOTION** by Council Member Larson seconded by Council Member Miller to reaffirm the membership of the Council Procedures Subcommittee consisting of the following Council Members was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

Angela Langley, Chairperson  
Tyrone Cox  
Erick Larson  
Paul Miller  
Floyd McKissick  
Virginia Engelhard

**SUBJECT: RESOLUTION REQUESTING NORTH CAROLINA DEPARTMENT OF  
TRANSPORTATION (NCDOT) IMPROVEMENTS TO HIGHWAY  
DIRECTIONAL SIGNS IN AND AROUND DURHAM - DURHAM  
CONVENTION AND VISITORS BUREAU**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt "A Resolution to Improve Directional Signs In and Around Durham" with a recommendation that the resolution be sent to NCDOT accompanied by a letter signed by the Mayor and the Chair of the Board of County Commissioners encouraging NCDOT to cooperate with the Durham Convention and Visitors Bureau in the effort was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**Resolution #8446**

**SUBJECT: VOLUNTARY PETITIONS FOR ANNEXATION FOR FISCAL YEAR 1998  
-NEWHALL VILLAGE, CHANCELLOR'S RIDGE AND TREYBURN I-8**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive a report from the Administration on voluntary annexation petitions for Newhall Village, Chancellor's Ridge and Treyburn I-8; and

To accept the City Clerk's certification of 100% ownership as required by N.C. General Statutes 160A-31 and 160A-58; and

To adopt resolutions setting public hearings on Monday, May 4,

**April 20, 1998**

**1998** to consider the three petitions for annexation was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**Resolution #8447**

**Resolution #8448**

**Resolution #8449**

**SUBJECT: CONTRACT ST-175 WITH HOLMES CONTRACTING, INCORPORATED - FLEET MAINTENANCE LOT REPAIR**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute Contract ST-175 with Holmes Contracting, Incorporated for Fleet Maintenance lot repair; and

To authorize the expenditure of up to \$103,000 from the Fleet Maintenance Lot Repair Account was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: CONTRACT SR-18 WITH SCHMITT BUILDING CONTRACTORS, INCORPORATED - SEWER OUTFALL RESTORATION**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute Contract SR-18 with Schmitt Building Contractors, Incorporated for sewer outfall restoration; and

To authorize the expenditure of up to \$72,000 from the Fran/FEMA funds was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: WATER EXTENSION AGREEMENT WITH ELI BROWN, INCORPORATED - CATALINA STREET**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a water extension agreement with Eli Brown, Incorporated to extend City water

**April 20, 1998**

approximately 700 feet to serve five lots on Catalina Street was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: SEWER EXTENSION AGREEMENT WITH STEPHEN KELLY - CAMBRIDGE DRIVE**

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to enter into a sewer extension agreement with Stephen Kelly to extend City sewer to serve three lots on Cambridge Drive was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: RESOLUTION COMMENDING GITHENS SHOW DOGS DRILL TEAM**

**MOTION** by Council Member Larson seconded by Council Member Miller to direct the City Clerk to draft a resolution commending the Githens Show Dogs Drill Team, directed by Tyrone Melton, for winning the National A.G. Drill Encampment Competition in Toledo, Ohio on March 28, 1998 was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: TEMPORARY RENAMING OF A PORTION OF BROAD STRET TO "MOLLY CORBETT BROAD WAY"**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a "Resolution for the President Broad Inauguration" to temporarily rename a portion of Broad Street directly in front of North Carolina School of Science & Mathematics for a two-day period only, April 28 and 29, 1998, to "Molly Corbett Broad Way" and to approve the erection of a sign in front of the campus was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.  
Note: (The cost of purchasing and erecting the sign will be at the School's expense)

**April 20, 1998**

**Resolution #8450**

**SUBJECT: SETTING PUBLIC HEARINGS TO CONSIDER ORDERING PETITION IMPROVEMENTS**

**MOTION** by Council Member Larson seconded by Council Member Miller to accept a Certificate of Sufficiency from the City Engineer for the following petitions for improvement; and

To adopt resolutions setting public hearings on Monday, May 4, 1998 to consider ordering the following improvements was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

- a. **Curb, Gutter and Paving, and Water and Sewer Laterals - Virginia Avenue** from Pershing Street to Sprunt Avenue; and
- b. **Water Main - Debra Drive** from north property line of Tax Map 718-3-8 to Carpenter Road

**SUBJECT: LOADING AND UNLOADING ZONE - MERRICK STREET**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance establishing a loading and unloading zone on the east side of Merrick Street in the area beginning at a point 64 feet north of the north curb line of Linwood Avenue, if extended, and extending for a distance of 25 feet northwardly was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**Ordinance #11410**

**SUBJECT: STOP SIGN - MARVIN DRIVE**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of a stop sign on Marvin Drive at Buchanan Street, southwest corner was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and

**April 20, 1998**

Miller. Noes: None. Absent: None.

**Ordinance #11411**

**SUBJECT: STOP SIGN - NEWHALL VILLAGE**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of a stop sign at each of the following locations was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

- 1) Donnelly Court at Newhall Road, southwest corner
- 2) Pendleton Court at Newhall Road, northeast corner

**Ordinance #11412**

**SUBJECT: STOP SIGN - SWARTHMORE ROAD (THE OAKS AT HOPE VALLEY)**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance authorizing the installation of a stop sign on Swarthmore Road at Hope Valley Road, northeast corner was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**Ordinance #11413**

**SUBJECT: CITY COUNCIL MINUTES - CITY CLERK'S OFFICE**

**MOTION** by Council Member Larson seconded by Council Member Miller to approve the official minutes of the regular March 16, 1998 City Council Meeting was approved at 7:47 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: REPORT AND RECOMMENDATION FROM THE PAY PLAN SUBCOMMITTEE**

Ralph McKinney spoke in support of this item.



**April 20, 1998**

James Moore, a city employee, spoke in support of the subcommittee's recommendation. He asked the council to support the 4-3-2 pay plan.

Captain William Ralston, of the Fire Department, stated he believed strongly that the City of Durham was losing prospective employees with great talent and desire simply because the starting salaries are lower than they should be and increases in salary do not allow one to reach a reasonable level in a realistic time. Mr. Ralston noted that he knew several young employees that do not feel good about choosing the City of Durham as a starting point in their careers because they feel trapped in the present pay plan. He asked the council to consider the recommendation for improving the pay plan in order to make the pay plan more equitable.

Mark Law, of the Fire Department, stated he and others in the department were having severe economic burdens due to the city's current pay plan. He stated the current pay plan limits him, as well as others, making it almost impossible to advance their career development. He asked the council to support the 4-3-2 pay plan recommendation.

Sanford Snipes, representing Water & Sewer Engineering Division, stated that under the current plan, morale is very low and with the type of jobs the employees have in his division, you cannot allow low morale. He noted they were losing experienced workers and inexperienced workers doing very dangerous tasks which will result in great injuries. He asked the council to support the recommendation for the new pay plan.

Nathanette Mayo, President of the Durham City Workers' Union, stated the union endorsed the proposal submitted by the pay plan subcommittee. To enhance employment with the City, Ms. Mayo noted that they would also like to see six weeks full pay medical disability leave; 40 hours for volunteer school leave per year; and the city's drug testing policy amended whereby employees are not automatically terminated due to a first positive drug test.

Mayor Tennyson and other Council Members thanked the employees for their attendance this evening. It was noted that the work of the city employees was very much appreciated.

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Brown to receive the comments from the city employees; and to receive a report and recommendation from the Pay Plan Subcommittee and to refer the report and recommendation to the City Manager [Manager to bring back a report and recommendation at the April

**April 20, 1998**

23, 1998 Finance Committee Meeting] was approved at 8:05 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA]**

**[PUBLIC HEARINGS]**

**SUBJECT: ZONING MATTER CASE P98-3, JUDITH COUNCIL, 4818 ALLENDOWN AND 4828 MEADOW DRIVE**

Case: P98-3

Applicant: Judith Council

Location: Two lots (37,200± square feet total) on 4818 Allendown and 4828 Meadow Drive, off NC Highway 55, south of NC Highway 54 (Tax Map 541, Block 2, Lots 6 and 6B)

Request: Rezoning from RD (Rural District) to NC (Neighborhood Commercial); F/J-B (Falls/Jordan Watershed Overlay)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD and placing same in and establishing same as NC; F/J-B Overlay.

Zoning Committee's Recommendation: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of RD and placing same in and establishing same as NC; F/J-B Overlay was approved at 8:06 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**April 20, 1998**

**SUBJECT: ZONING MATTER CASE P97-86, REVEREND PHILLIP R. COUSIN,  
ST. JOSEPH AME CHURCH, 2521 FAYETTEVILLE STREET AND  
SOUTHWEST CORNER OF HOPE AND RICH STREETS**

Case: P97-86

Applicant: Rev. Phillip R. Cousin, St. Joseph AME Church

Location: The 7.5-acre site consists of 2 parcels located at 2521 Fayetteville Street and the southwest corner of Hope and Rich Streets, identified as Tax Map 171, Block 1, Lot 1, and Block 7, Lot 1

Request: Rezoning from R-3 (Residential 3), R-5 (Residential 5), and GC (General Commercial) to OI-2(D)  
(General Office and Institutional with Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-3, R-5, and GC and placing same in and establishing same as OI-2(D).

Zoning Committee's Recommendation: Approval (7-0)

City Manager's Recommendation: Approval

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-3, R-5, and GC and placing same in and establishing same as OI-2(D) was approved at 8:07 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: Sewer Main - South Alston Avenue** from South Property Line of Tax Map 555-4-15 to North Property Line of Tax Map 556-4-3A (Enabling Act Authority)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**April 20, 1998**

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution ordering sewer main on South Alston Avenue from south property line of Tax Map 555-4-15 to north property line of Tax Map 556-4-3A under the Enabling Act Authority was approved at 8:07 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: Sidewalk - Lawson Street (North Side)** from South Briggs Avenue to Bacon Street (Enabling Act Authority)

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt a resolution ordering sidewalk on Lawson Street (North Side) from South Briggs Avenue to Bacon Street under the Enabling Act Authority was approved at 8:08 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: IMPACT FEE APPEAL CASE 98-01 - RALPH BULLOCK (QUASIJUDICIAL MATTER)**

To receive information from staff regarding the Impact Fee Appeal by Ralph Bullock.

To hear the appeal of Ralph Bullock contesting the Impact Fee of \$758.24 assessed when he moved his house to a new location.

To review the evidence presented, and enter a final decision amending or confirming the amount of the Impact Fee (including findings of fact and conclusions explaining the basis for the decision).

City Clerk Bowers swore in the following individuals: Ralph Bullock; Dawn Huynh; and Nav Gill.

The Mayor asked council to reveal any possible conflicts and to withdraw from this hearing if necessary. Also, the Mayor asked if any council member had been exposed to any evidence or information

**April 20, 1998**

that may not come out at the hearing tonight.

Mayor Tennyson explained the proceedings for this impact fee appeal request.

Mayor Tennyson opened the hearing on Case 98-01.

**Testimony from Staff**

Dawn Huynh, of the Treasury Department, stated Mr. Bullock, the appealing party, was assessed an impact fee in the amount of \$758.24 when he removed his house from one location to another. She noted Mr. Bullock did attend a meeting with the impact fee appeal board and based on the information, the fee was confirmed. Ms. Huynh informed council that the impact fee remains with the land and does not move with the house. She stated Mr. Bullock is requesting that the decision be appealed.

The Mayor asked if there were questions from the council or Mr. Bullock.

Council Member McKissick asked if the appealing party moved his house from one lot to a new lot.

Dawn Huynh replied yes.

Nav Gill, of the Treasury Department, stated when Mr. Bullock moved the house from Lot A to Lot B, the impact fee that is assessed goes with Lot B. He noted Mr. Bullock did pay an impact fee on Lot A but it remains at Lot A.

Dawn Huynh stated the original impact fee that was paid for Lot A [the new owner will get credit for that location and when you move a house the credit does not go with the house].

Council Member McKissick asked what did the city's ordinance actually state.

Nav Gill noted the impact fee ordinance states that when a new house/new structure is built, the impact fee remains with the land and if you move a house from Lot A to Lot B, a new impact fee is calculated because of the impact of the new property on traffic; parks and recreation and streets. Mr. Gill stated when a structure is moved from A to B, the impact fee credit does not move with the structure, it remains with the property.

Council Member McKissick noted that this case was being treated as if it was a brand new house and the policy is clear on that.

**April 20, 1998**

Nav Gill replied yes.

Council Member Jacobs noted since this was considered as new construction, it would be subject to the fee.

**Testimony from Ralph Bullock**

Mr. Bullock noted during his hearing initially, it was not his understanding and he did not remember being told that the impact fee was for the land, but for the building. He noted he was a developer and did construct new buildings and had no issues with impact fees on new buildings. In this case, Mr. Bullock stated the only additional impact to the environment is transfer only and this was the issue he would like the council to consider. He stated when the ordinance was developed, it did not consider at that time the growth in the area, the progress being made and a lot of the buildings are being moved from one location to another.

Mayor Tennyson asked the administration if the new developer will get credit for the impact fee that was paid [the user of the land] from which the house is removed.

Dawn Huynh replied yes.

Mayor Tennyson noted the administration was accounting for net growth of impact not transfer as Mr. Bullock stated.

Dawn Huynh replied yes - net increase.

Ralph Bullock stated he understood what was stated this evening; however, it was not clear when he had his initial meeting with the board.

**Recommendation from Staff**

Staff recommended that the City Council uphold the denial of the appealing party's request for waiver of the impact fee.

**MOTION** by Council Member McKissick seconded by Council Member Miller to adopt the Final Decision of the City Council Confirming the Amount of Impact Fee as outlined below was approved at 8:25 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

The City Council of the City of Durham having conducted a hearing

**April 20, 1998**

on Case #98-01 and having considered all evidence presented at such hearing, hereby confirms the amount of impact fee.

The Council hereby makes the following factual findings:

1. "New construction" is subject to impact fee charge under the impact fee ordinance;
2. The house of the appealing party is being moved to a new location and its reconstruction at the new location requires a building permit;
3. The house of the appealing party is considered "new construction" at the new location. New Construction, as defined by the ordinance, is any real property improvement for which a building permit is required, including installing manufactured and modular homes;
4. The City has consistently required that a home being located on a previously vacant lot pay the impact fee in accordance with the impact fee ordinance;

THEREFORE, the Council concludes that the property improvement located at 5814 Loyal Avenue owned by Ralph Bullock is subject to an impact fee of \$758.24 as provided by the Impact Fee Ordinance of Durham.

Mayor Tennyson closed the hearing on Case 98-01.

**SUBJECT: STREET CLOSING CASE SC97-12 - PORTION OF DEARBORN DRIVE  
(HOUSING AUTHORITY OF THE CITY OF DURHAM)**

To receive a report from the Administration on the proposed closing of a portion of Dearborn Drive.

To receive citizen comments on the proposed street closing.

To adopt an "Order Permanently Closing a 23,889± Square Foot Portion of Dearborn Drive, between Danube Lane and Keystone Place."

**MOTION** by Council Member Larson seconded by Council Member Miller to continue the public hearing without further advertising until the May 4, 1998 City Council Meeting was approved at 8:26 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller.

**April 20, 1998**

Noes: None. Absent: None.

**SUBJECT: ZONING MATTER CASE P97-67, S & R PARTNERSHIP, 4706 HOPE VALLEY ROAD**

Case: P97-67

Applicant: S & R Partnership

Location: The 9.976-acre site, located at 4706 Hope Valley Road (NC-751), consists of three parcels, one fronting on Garrett Road. These lots are identified as Tax Map 426, Block 1, Lots 7, 16, and 17.

Request: Rezoning from R-10 (Residential-10) and PDR (Planned Density Residential) to RM-12(D) (Multi-family Residential at 12 units per acre); F/J-B Overlay

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of R-10 and PDR and placing same in and establishing same as RM-12(D); F/J-B Overlay.

Zoning Committee's Recommendation: Approval (7-0)

City Manager's Recommendation: Approval, subject to changes to the Development Plan

Attorney Jack Markham stated his client was preparing to revise the development plan and they would need to appear before the Zoning Committee and the case would need to be re-advertised. Rather than continue this case, Attorney Markham felt it would be better if the council would remove this case from the cycle.

Dick Hails, of the City/County Planning Department, stated the letter from the applicant requested that Case P97-67 be placed on hold until they complete the revised process. Mr. Hails recommended that the council close the public hearing on Case P97-67 and the staff would set a new public hearing once the revised proposal is submitted.

A motion was made by Council Member Larson to close the public hearing on Case P97-67 and refer to the administration. This motion was seconded by Council Member Miller.

A substitute motion was made by Council Member McKissick to continue rezoning Case P97-67 for six months. This motion was seconded by Council Member Cox.

Dick Hails, of the City/County Planning Department, stated to continue this case would be holding open the public hearing and if



**April 20, 1998**

and when the matter came back before the council and it was not substantially the same form as at the present, the council could pick up where they left off. He stated if the council referred the matter to the administration, the staff would wait and review what the applicant submits to see what degree of change vs. what is before the council this evening, and then the staff would make a judgment of whether it is a brand new case or the same case and then schedule public hearings.

**SUBSTITUTE MOTION** by Council Member McKissick seconded by Council Member Cox to continue rezoning Case P97-67 for six months was approved at 8:39 p.m. by the following vote: Ayes: Council Members Brown, Burnette, Cox, Griffin, Jacobs, Langley and McKissick. Noes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Larson, Miller, Engelhard and Blyth. Absent: None.

**SUBJECT: ZONING MATTER CASE P97-80, LRC, L.L.C., NORTHEAST CORNER OF THE INTERSECTION OF NC 54 ACCESS ROAD AND CELESTE CIRCLE**

Case: P97-80

Applicant: LRC, L.L.C.

Location: The 0.91-acre site is located on the northeast corner of the intersection of NC 54 Access Road and Celeste Circle, identified as Tax Map 489, Block 2, Lots 3 and 4

Request: Rezoning from OI-1(D) (Transitional Office and Institutional with Development Plan) to NC(D) Neighborhood Commercial with Development Plan); F/J-B (Falls/Jordan Watershed Overlay) and MTC (Major Transportation Corridor)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of OI-1(D) and placing same in and establishing same as NC(D); F/J-B and MTC Overlays

Zoning Committee's Recommendation: Denial (6-1)

City Manager's Recommendation: Denial

Mayor Tennyson opened the public hearing.

### **Proponents**

Thomas Stark, representing the applicant, requested council to postpone this case for 90 days or refer to the administration. Mr. Stark stated the developer wishes to provide an amended

**April 20, 1998**

development plan.

### **Opponents**

Rex Pegram, of 121 Celeste Circle, stating his was speaking on behalf of the residents of Eastwood Park and they were opposed to this rezoning. Mr. Pegram noted that over 80% of the residents are opposed to commercial zoning for this property due to traffic problems, loss of property values and zoning creep, and they felt the businesses proposed for this site do not support the needs of their community. He noted that the City/County Planning staff, along with the Durham Zoning Committee, was opposed to this rezoning because they recognize that commercial zoning of this property is inconsistent with the Southwest Durham Development Plan and the increased traffic from commercial business would worsen the traffic situation at the Celeste Circle, 54 Access Road/54 intersection, which is already dangerous.

Sherry Kurte, a resident of 125 Celeste Circle, noted she was made aware today of the applicant's intention to submit a revised plan.

She noted the change from OI-1 to OI-2 would involve a lot more traffic in their neighborhood. Ms. Kurte asked the council to deny this request.

Chris Selby, a resident of 138 Celeste Circle, stated any increase in traffic due to increased development in this area would be greatly magnified in the next few years with further anticipated development on Highway 54 and Chapel Hill. He noted this request would lend to a great deal of instability to the property.

Anita Elks, a resident of 134 Celeste Circle, stated the Transportation Division did assess the area in question and the closest traffic light was at the intersection of Highway 54 and Farrington Road. She stated the proposed development would not have a traffic light because the present traffic signal is too close to place another one.

### **Rebuttal**

Thomas Stark stated the proposal for NC(D) came from some adjoining property owners and one of them wanted to have commercial establishment as a part of the building. He noted that the change which is causing the developer to request OI-2 was that the commercial establishment is no longer a possibility. He stated there was a small bridal shop wanting to use a portion of this office building and it will not change in its overall structure or design. He stated the developer thought that a couple of small commercial users would be an appropriate use of the site. He stated there was not a protest petition and the

**April 20, 1998**

immediate neighbors wanted this change and all of the neighbors abutting this property, with the exception of one, also abutt the adjoining commercial property. Mr. Stark stated they needed to submit an amended development plan and requested council to refer the item to the administration.

Due to the fact that the current proposal was not the plan the developer would be proposing, a motion was made by Council Member Larson to refer this rezoning request to the administration. This motion was seconded by Council Member Blyth.

Council Member Cox stated the development plan as presented was not appropriate for the site. Council Member Cox noted that the recommendation from the City Manager was to deny and with a vote of 6-1 from the Zoning Committee to deny. He stated the council should act on this matter this evening and he wanted to move the item as printed with the intention of voting no.

A substitute motion was made by Council Member Cox to approve the rezoning request. This motion was seconded by Council Member Miller.

Council Member Miller stated he was in agreement with the zoning committee and staff and would be voting to deny this request.

Thomas Stark, representing the applicant, asked that the council allow him to withdraw the rezoning request.

**SUBSTITUTE MOTION TO THE SUBSTITUTE** by Council Member McKissick seconded by Council Member Jacobs to accept the request for withdrawal by the applicant for Zoning Case P97-80 was approved at 9:03 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Burnette, Cox, Griffin, Jacobs, Langley, Larson and McKissick Noes: Council Members Brown, Engelhard and Miller. Absent: None.

**SUBJECT: ZONING MATTER CASE P98-1, BOULEVARD PROPERTIES LIMITED PARTNERSHIP, 3701 NEW MT. MORIAH ROAD**

Case: P98-1

Applicant: Boulevard Properties Limited Partnership

Location: The 20.02-acre site is located at 3701 New Mt. Moriah Road, identified as Tax Map 483, Block 1, Lot 1

Request: Change in area covered by SC(D) (Shopping Center with Development Plan)

To adopt an ordinance amending the Zoning Ordinance, the same

**April 20, 1998**

being Chapter 24 of the Durham City Code, to make a change in the area covered by SC(D).

Zoning Committee's Recommendation: Approval (7-0)

City Manager's Recommendation: Approval

**Note: Valid protest petition filed against this rezoning request.**

Mayor Tennyson opened the public hearing.

### **Proponents**

Attorney Jack Markham, representing the applicant, briefed council on the proposal being requested. He noted the underlaying shopping center will not change because the applicant was seeking only to change the development plan by removing 29,110 square feet from the existing development plan to be combined with 60,000 square feet of adjacent property for a proposed hotel which was the subject of the next Zoning Case P98-2. Attorney Markham reminded council of the protest petition filed by the Winston Hotel Group who owns the two hotels across Mt. Moriah Road. Also, Mr. Markham asked council to approve the request.

### **Opponents**

Scott Zimmerman, representing the Winston Hotel Group, requested council to defer action on this request allowing his client to review the proposed request to obtain sufficient information.

### **Rebuttal**

Attorney Jack Markham stated that the staff report has been available for the Winston Hotel Group to obtain sufficient information. Also, he noted they could have obtained information from the planning staff. Attorney Markham noted the only change on the development plan was removal of about 3/4 of an acre to combine with some other property. He stated he could see no benefit in deferring this request.

Mayor Tennyson closed the public hearing.

A motion was made by Council Member Cox to defer this rezoning request to the May 4, 1998 City Council Meeting. This motion was seconded by Council Member McKissick.

A substitute motion was made by Council Member Miller to approve the rezoning request as printed on the agenda. This motion was seconded by Council Member Engelhard.

**April 20, 1998**

Council Members Cox and McKissick raised concern relative to the traffic impact of this proposal.

Paul Norby, of the City/County Planning Department, stated that the existing development in this area allows adequate access and given the mix-use development plan in terms of the adopted land use plan for southwest Durham, there would be a lot of potential for even more connections in other directions to this property. Mr. Norby stated the administration felt comfortable in recommending this proposal.

**SUBSTITUTE MOTION** by Council Member Miller seconded by Council Member Engelhard to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, to make a change in the area covered by SC(D) was approved at 9:35 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Engelhard, Griffin, Jacobs, Langley, Larson and Miller. Noes: Council Members Cox and McKissick. Absent: None.

**SUBJECT: ZONING MATTER CASE P98-2, SHREE JEE CORPORATION, MT. MORIAH ROAD AND WATKINS ROAD**

Case: P98-2

Applicant: Shree Jee Corporation

Location: The 1.9535-acre site is located southeast of the intersection of Mt. Moriah Road and Watkins Road, identified as Tax Map 477, Block 3, Lot 5 (partial) and Tax Map 483, Block 1, Lot 1 (partial)

Request: Rezoning from SC(D) (Shopping Center with Development Plan) and R-20 (Residential 20) to OI-2(D) (General Office and Institutional with a Development Plan); MTC (Major Transportation Corridor)

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of SC(D) and R-20 and placing same in and establishing same as OI-2(D); MTC Overlay.

Zoning Committee's Recommendation: Approval (7-0)

City Manager's Recommendation: Approval

Mayor Tennyson opened the public hearing.

Attorney Jack Markham, representing the applicant, spoke in

**April 20, 1998**

support of the request.

No one spoke in opposition. Mayor Tennyson closed the public hearing.

**MOTION** by Council Member Larson seconded by Council Member Miller to adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the above described property out of SC(D) and R-20 and placing same in and establishing same as OI-2(D); MTC Overlay was approved at 9:39 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**[OTHER MATTERS]**

**SUBJECT: 1998 LEGISLATIVE PROGRAM - SHORT SESSION**

**MOTION** by Council Member Miller seconded by Council Member Larson to receive a report from the Legislative Committee; and

To approve the 1998 Legislative Program for the Short Session was approved at 9:40 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

CITY OF DURHAM  
1998 LEGISLATIVE PROGRAM - SHORT SESSION

- I. Charter Amendments/Local Bills
  - 1. Dumpster Service Without Charge to Residential Customers
  - 2. Allow Property Owners to Pay for Stormwater Improvements Over Time.
  - 3. Release of Personnel Information to Citizen Review Board
  - 4. Motor Vehicle Tax
- II. General Law/Carryover Bills

**April 20, 1998**

1. Senate Bill 452 - Local Regulation of Adult Business
2. Senate Bill 475 - Preservation of Trees
3. House Bill 1077 - Regulation of Massage and Bodyworks Therapies

**III. Other**

1. Resolution In Support of the Request of the North Carolina Museum of Life and Science for one-time funding of \$5,000,000 for Phase II construction of the Bio-Quest Outdoor Science Center - Resolution #8451
2. Resolution in Support of Changing the Manner in which Members of the State Board of Transportation are Appointed - Resolution #8452
3. Resolution in Support of the Preservation of Existing Laws on Municipal Annexation Authority - Resolution #8453
4. Resolution in Support of Creating and Implementation of an Environmental/Local Ordinance Court for Durham - Resolution #8418

**SUBJECT: RESOLUTION MEMORIALIZING TERRY SANFORD**

**MOTION** by Mayor Pro Tempore Clement seconded by Council Member Larson to direct the City Clerk to prepare a Resolution Memorializing Terry Sanford was approved at 9:41 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**[ITEMS PULLED FROM THE CONSENT AGENDA]**

**SUBJECT: HUMAN RELATIONS COMMISSION'S ANNUAL REPORT FOR FISCAL YEAR 1996-97**

**MOTION** by Council Member Larson seconded by Council Member Miller to receive the Human Relations Commission's Annual Report for Fiscal Year 1996-97 was approved at 9:41 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and

**April 20, 1998**

Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None.  
Absent: None.

**SUBJECT: FIRE STATION #4 CONSTRUCTION - INTERSECTION OF RIDDLE ROAD AND HIGHWAY 55 - AWARD OF CONTRACTS**

To authorize the City Manager to execute the following contracts for construction of Fire Station #4 to be located at the intersection of Riddle Road and Highway 55:

General Contractor	Trout & Riggs Construction Company--\$529,800
Plumbing Contractor	Eakins Plumbing Company--\$55,300
HVAC Contractor	Carolina Air Conditioning--\$44,880
Electrical Contractor	Wood Electric--\$69,200

Due to a past incident with the former Quick Silver Restaurant located on Fayetteville Street, Constance Stancil and William Edwards representing Hayti Development Corporation spoke in opposition to Trout & Riggs Construction Company receiving a contract from the City of Durham to construct Fire Station #4.

A motion was made by Council Member Larson to approve the item as printed on the agenda. This motion was seconded by Council Member Miller.

**SUBSTITUTE MOTION** by Mayor Pro Tempore Clement seconded by Council Member Cox reject all bids and rebid **FAILED** at 10:02 p.m. by the following vote: Ayes: Mayor Pro Tempore Clement and Council Members Burnette, Cox, Jacobs and Brown. Noes: Mayor Tennyson and Council Members Langley, McKissick, Larson, Miller, Griffin, Engelhard and Blyth. Absent: None.

**MOTION** by Council Member Larson seconded by Council Member Miller to authorize the City Manager to execute the following contracts for construction of Fire Station #4 to be located at the intersection of Riddle Road and Highway 55 was approved at 10:02 p.m. by the following vote: Ayes: Mayor Tennyson and Council Members Blyth, Brown, Burnette, Engelhard, Griffin, Langley, Larson, McKissick and Miller. Noes: Mayor Pro Tempore Clement and Council Members Cox and Jacobs. Absent: None.

General Contractor Trout & Riggs Construction Company \$529,800  
Plumbing Contractor Eakins Plumbing Company--\$55,300  
HVAC Contractor Carolina Air Conditioning--\$44,880



**April 20, 1998**

Electrical Contractor Wood Electric--\$69,200

**SUBJECT: JOB TRAINING PARTNERSHIP ACT PLAN FOR PROGRAM YEARS 1998-99**

**MOTION** by Council Member Larson seconded by Council Member Miller to accept the Job Training Partnership Act Plan for Program Years 1998-99; and

To authorize the Mayor and the City Manager to sign all documents related to the Job Training Plan and Program for Program Years 1998-99 was approved at 10:03 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

**SUBJECT: CONTINUANCE OF THE DURHAM PREVENTION PARTNERSHIP**

**MOTION** by Council Member Larson seconded by Council Member Miller to refer the continuance of the Durham Community Prevention Partnership to the City Manager and staff for further study and recommendation as to funding was approved at 10:03 p.m. by the following vote: Ayes: Mayor Tennyson, Mayor Pro Tempore Clement and Council Members Blyth, Brown, Burnette, Cox, Engelhard, Griffin, Jacobs, Langley, Larson, McKissick and Miller. Noes: None. Absent: None.

There being no further business to come before the Council, the meeting was adjourned at 10:03 p.m.

D. Ann Gray  
Deputy City Clerk

Margaret M. Bowers, CMC  
City Clerk